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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

Debra Doherty

MUR 6768

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SECOND GENERAL COUNSEL'S REPORT

I. ACTIONS RECOMMENDED

(1) Take no further action and (2) close the file.

II. INTRODUCTION

Debra Doherty, the former treasurer of the Official 12th Dist Dem Party ("the Committee"), made six unauthorized withdrawals of committee funds totaling \$14,500 between January 15, 2010 and January 24, 2011, and failed to disclose either the withdrawals or her subsequent repayments of those withdrawals in disclosure reports filed with the Commission.¹ Doherty also failed to file the Committee's 2010 Post-General and 2010 Year End reports with the Commission.² As a result, the Commission found reason to believe that Doherty knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 434(a) and (b)³ and entered into pre-probable cause conciliation with her.⁴

¹ Factual & Legal Analysis at 1 ("F&LA").

² *Id.*

³ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended ("the Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

⁴ See MUR 6768 Certification (Dec. 19, 2013).

MUR 6768 (Debra Doherty)
Second General Counsel's Report

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MUR 6768 (Debra Doherty)
Second General Counsel's Report

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6 In light of the circumstances here, it does not appear to be a prudent use of
7 Commission resources to continue to pursue Doherty. With respect to respondents in
8 conciliation who claim and document their financial hardship, the Commission generally will
9 obtain a conciliation agreement with a substantially reduced or no civil penalty so long as the
10 respondent agrees to cease and desist from violating the statutory and regulatory provisions at
11 issue. Here, however, obtaining a conciliation agreement does not appear likely given
12 Doherty's failure to respond to the inquiries of her counsel. Doherty's apparent poor mental
13 health may be contributing to her unresponsiveness. Moreover, although the amount of
14 money Doherty embezzled — \$14,500 — is not *de minimis*, Doherty and her family repaid
15 the funds to the Committee, making it whole, and it seems unlikely that Doherty will be in a
16 position to repeat the violations.¹⁸ Although in general ignoring one's counsel is not grounds
17 for dismissing a matter in conciliation, for the reasons set forth here we do not believe it is
18 worth the Commission's resources to proceed to the probable cause stage in this matter. The

¹⁸ See F&LA at 2; Advisory Opinion 2006-16 (Nancy Detert) (Parents' reimbursement of misappropriated funds in order to mitigate former treasurer's potential criminal liability does not constitute contribution to the committee).

Commission's reason to believe findings concerning Doherty's possible knowing and willful violations will stand on the public record.

Accordingly, we recommend that the Commission exercise its prosecutorial discretion and take no further action against Debra Doherty and close the file.¹⁹

IV. RECOMMENDATIONS

1. Take no further action as to Debra Doherty;
2. Approve the appropriate letters; and
3. Close the file.

Date

Sept. 5, 2014

Daniel A. Petalas

Associate General Counsel

Mark Allen

Acting Assistant General Counsel

Tracey L. Ligon

Attorney

¹⁹ *Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (in determining whether to pursue an enforcement action, an agency "must not only assess whether a violation has occurred, but whether agency resources are best spent on this violation or another . . ."); see MURs 6486, 6491 (Winston) (Commission took no action with respect to respondent who was elderly and infirm); MUR 5646 (Jesse Burchfield) (Commission found RTB that treasurer John Buchalski violated Act in his personal capacity but took no further action after learning of his limited role, advanced age, ill health, and unlikelihood of serving in same capacity in the future).